

EX PARTE OR LATE FILED



ORIGINAL

NOTICE OF *EX PARTE*  
PRESENTATION

January 14, 2005

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TWA325  
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

|                      |
|----------------------|
| RECEIVED & INSPECTED |
| FEB 7 2005           |
| FCC - MAILROOM       |

www.smartcity.com

**Re: AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services, WC Docket No. 03-133**

Dear Ms. Dortch:

The attached written *Ex Parte* Presentation concerning the above-referenced proceeding was sent to the Commissioners by Smart City Telecommunications on January 14, 2005. In accordance with FCC Rule 1.1206(b)(1),<sup>1</sup> this Notice of *Ex Parte* Presentation and a copy of the *Ex Parte* Presentation are being filed with you electronically for inclusion in the public record.

Sincerely,

Martin A. Rubin  
President & CEO

No. of Copies rec'd 0  
List ABCDE

<sup>1</sup> 47 C.F.R. §1.1206(b)(1).

January 14, 2005

**EX PARTE PRESENTATION**  
**Via E-mail**

RECEIVED & INSPECTED

FEB 7 2005

FCC - MAILROOM

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8 B201  
Washington, DC 20554

The Honorable Michael Copps  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8 A302  
Washington, DC 20554

The Honorable Kathleen Q. Abernathy  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8 B115  
Washington, DC 20554

The Honorable Jonathan Adelstein  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8 C302  
Washington, DC 20554

The Honorable Kevin Martin  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8 A204  
Washington, DC 20554

**Re: AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid  
Calling Card Services, WC Docket No. 03-133**

Dear Commissioners:

Smart City Telecommunications has received word that the Federal Communications Commission is considering action on the AT&T Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services, WC Docket No. 03-133. We are a small telephone company and are writing you because the Commission's action on this matter is of vital importance to our customers.

AT&T has wrongfully interpreted the law that requires payment of intrastate access charges and contributions to the Universal Service Fund on telecommunications services. Moreover, AT&T has wrongfully engaged in self help by withholding \$340 million in intrastate access charge payments and \$160 million in USF contributions based on its inaccurate interpretation of the law. AT&T's refusal to pay intrastate access charge payments where owed hinders the ability of small companies like Smart City Telecommunications to meet our revenue requirements. Further, AT&T's refusal to make required contributions to the USF puts the entire universal service system in jeopardy because it results in continuing increases in the USF contribution factor for law-abiding carriers and their subscribers, yet AT&T refuses to make required contributions.

The interjection of a recorded advertisement into the process of making a call using AT&T's prepaid calling card service does not make the service an information or enhanced

service. In addition, transporting a call made using the service to an out-of-state service platform before completing it does not make the service wholly interstate in nature. The Commission should declare that AT&T's prepaid calling card service is a telecommunications service and that calls made using the service can be either interstate or intrastate depending on the end-to-end transaction of each individual call.

We urge the Commission to deny AT&T's Petition. We also urge the Commission to declare that AT&T is required to make prospective and retroactive intrastate access charge payments on calls made by subscribers using AT&T's prepaid calling card service and that AT&T is required to make prospective and retroactive contributions to the Universal Service Fund on the interstate revenue received from its service. Finally, we also urge the Commission to impose penalties where appropriate for AT&T's failure to make USF contributions.<sup>2</sup>

The Commission cannot allow AT&T to continue to violate the law. Nor can the Commission condone AT&T's prior unlawful behavior.

Sincerely,

  
Martin A. Rubin  
President & CEO

---

<sup>2</sup> In 2004, the Commission found that AT&T violated the law by not making interstate access charge payments on its phone-to-phone Internet protocol telephony services, but did not require AT&T to pay interstate access charges retroactively and did not impose penalties for AT&T's violation. However, in light of AT&T's blatant disregard of the law requiring payment of intrastate access charges and USF contributions in the present matter, it is imperative that the Commission impose penalties as appropriate. To do otherwise would only encourage other carriers to violate the law in order to reap illegal savings.